

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

**ORDER MAKING FINAL DETERMINATION
OF PRIORITY DATES AND IRRIGATION WATER REQUIREMENTS
IN SECTION 5 OF THE RIO CHAMA STREAM SYSTEM, RIO GALLINA**

THIS MATTER is before the Court on the Motion of the Plaintiff State of New Mexico, *ex rel.*, State Engineer for Order Making Final Determination of Priority Dates and Irrigation Water Requirements in Section 5 of the Rio Chama Stream System, Rio Gallina, filed March ____ 2008 (Docket. No. ____).

The Court, having reviewed the Motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises finds the Motion to be well-taken, and that it should be GRANTED. Further, the Court FINDS that:

Each of the individual subfile defendants in Section 5, the community ditches (Acequias) in Section 5, and the United States of America have been served with the Court's Notice and Order to Show Cause in connection with the proposed determination of priority dates and irrigation water

EXHIBIT 1

requirements in Section 5 of the Rio Chama Stream System (Rio Gallina).

The Court's Notice and Order to Show Cause has been published in the Rio Grande Sun once each week for 4 consecutive weeks, the first publication being on the 4th day of October 2007 and the last publication being on 25th day of October 2007.

Notice of the proposed determination of priority dates and irrigation water requirements in Section 5 has been provided to all claimants, known and unknown, who may claim or have a right to use the surface waters of the Rio Chama Stream System Section 5.

The Court's Notice and Order to Show Cause required all claimants who disagree with the State's proposed determination of the priority date of their water rights, or any other person's water rights, for surface water irrigation use in Section 5, or who disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in Section 5, to file an objection to the proposed determination of priority dates and irrigation water requirements in Section 5 by December 31, 2007.

No objection to the proposed determination of priority dates or irrigation water requirements in Section 5 has been filed with the Court.

There is no just reason for delay for the entry of a final judgment as to priority dates and irrigation water requirements for surface water irrigation use in Section 5, and the Court enters this Order as a final judgment as to the priority dates and irrigation water requirements of the water rights described herein. This determination is not subject to a general right of claimants in Section 5 to file objections to individual adjudication orders, and subsequent *inter se* proceedings in Section 5 will not include the opportunity for any claimants, known or unknown, who claim a right to use surface waters in Section 5 to file an objection to the determination of the elements of the water rights

described herein.

IT IS THEREFORE ORDERED that the priority dates of the community and private ditches in Section 5 (Rio Gallina), and all individual irrigation water rights served by those ditches, are as set forth below:

Vigiles Ditch	1876
Rincon Ditch	1876
Placitas Ditch	1876
Sanchez–Maestas Ditch	1876
Cordova–Martinez Ditch	1878
Gonzales–Gurule Ditch	1878
Cecilia Ditch	1878
Valdez Ditch	1878
Emilio Jacquez Ditch	1902

IT IS FURTHER ORDERED that the irrigation water requirements for surface water irrigation use in Section 5 (Rio Gallina) are as set forth below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.38 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 3.46 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 5.77 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery

Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

IT IS FURTHER ORDERED that the priority dates and the amount of water for surface water irrigation use described in individual subfile orders in Section 5 (Rio Gallina) are adjudicated as follows:

A. All individual subfile orders entered by the Court for surface water irrigation use in Section 5 (Rio Gallina) are amended to incorporate in the description of water rights the priority dates and irrigation water requirements described above, as summarized and set forth in the Appendix attached hereto.

B. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 5.77 acre-feet per acre per annum diverted by the ditch from the surface source, or 3.46 acre-feet per acre per annum delivered to the farm headgate, or a beneficial consumptive use of 1.38 acre-feet per acre per annum.

C. Any diversion and use of the waters of the Rio Chama Stream System Section 5 (Rio Gallina) by any defendant except in strict accordance with the water rights described herein is

prohibited.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

SPECIAL MASTER VICKIE L. GABIN

**APPENDIX TO ORDER MAKING FINAL DETERMINATION
OF PRIORITY DATES AND IRRIGATION WATER REQUIREMENTS
IN SECTION 5, RIO GALLINA**

VIGILES DITCH

Priority: 1876

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
a FDR of 3.46 acre-feet per acre per annum, or
a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-004-0001A	A	37.6	SD 06127-1
CHGA-004-0001B	A	1.9	SD 06127-2
CHGA-004-0001C	A	3.2	SD 06127-3

RINCON DITCH

Priority: 1876

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
a FDR of 3.46 acre-feet per acre per annum, or
a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-003-0020	A	13.2	SD 03247-1
CHGA-003-0021	A	11.6	SD 03247-2
CHGA-003-0022	A	8.8	SD 03247-3
CHGA-003-0023	A	30.9	SD 03247-4
CHGA-003-0024A	A	7.0	SD 03247-5
CHGA-003-0024B	A	5.0	SD 03247-6
CHGA-003-0025	A	2.8	SD 03247-7

PLACITAS DITCH

Priority: 1876

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
 a FDR of 3.46 acre-feet per acre per annum, or
 a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-003-0003A	A	3.1	SD 06129-1
CHGA-003-0003B	A	26.3	SD 06129-2
CHGA-003-0003C	A	3.1	SD 06129-3
CHGA-003-0003D	A	3.2	SD 06129-4
CHGA-003-0004A	A	3.5	SD 06129-5
CHGA-003-0004B	A	1.9	SD 06129-6
CHGA-003-0005	A	3.5	SD 06129-7
CHGA-003-0008	A	5.0	SD 06129-8
CHGA-003-0009	A	2.8	SD 06129-9
CHGA-003-0010	A	1.9	SD 06129-10
CHGA-003-0011	A	0.8	SD 06129-11
CHGA-003-0012A	A	0.2	SD 06129-12
CHGA-003-0012B	A	1.7	SD 06129-13
CHGA-003-0012C	A	2.3	SD 06129-14
CHGA-003-0013	A	1.9	SD 06129-15
CHGA-003-0014	A	1.9	SD 06129-16
CHGA-003-0015	A	8.3	SD 06129-17
CHGA-003-0016	A	4.8	SD 06129-18
CHGA-003-0017	A	3.5	SD 06129-19
CHGA-003-0018	A	1.2	SD 06129-20
CHGA-003-0019	A	1.8	SD 06129-21
CHGA-003-0020	C	0.4	SD 06129-22
CHGA-003-0025	B	1.7	SD 06129-23
CHGA-003-0027	A	0.2	SD 06129-24
CHGA-003-0028	A	0.1	SD 06129-25
CHGA-004-0002	A	0.7	SD 06129-28

SANCHEZ-MAESTAS DITCH

Priority: 1876

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
 a FDR of 3.46 acre-feet per acre per annum, or
 a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-004-0003	A	2.8	SD 06134-2
CHGA-004-0004	A	6.2	SD 06134-4
CHGA-004-0006	A	12.3	SD 06134-1

CORDOVA-MARTINEZ DITCH

Priority: 1878

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
 a FDR of 3.46 acre-feet per acre per annum, or
 a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-002-0009B	A	1.3	SD 00462-2
CHGA-002-0013	A	18.2	SD 00462-3
CHGA-002-0014	A	15.2	SD 00462-4
CHGA-002-0015	A	14.0	SD 00462-5
CHGA-002-0016	A	8.6	SD 00462-6
CHGA-002-0017	A	2.4	SD 00462-7
CHGA-002-0018	A	7.3	SD 00462-8
CHGA-002-0020	A	8.7	SD 00462-9
CHGA-002-0021A	A	6.5	SD 00462-10
CHGA-002-0021B	A	2.5	SD 00462-11
CHGA-002-0021C	A	1.1	SD 00462-12
CHGA-002-0022	A	2.7	SD 00462-13
CHGA-002-0023	A	1.0	SD 00462-14
CHGA-002-0024A	A	1.4	SD 00462-15

CHGA-002-0024B	A	2.4	SD 00462-16
CHGA-002-0025	A	36.8	SD 00462-17
	B	19.7	SD 00462-55
CHGA-002-0026	A	6.6	SD 00462-18
CHGA-002-0027A	A	11.4	SD 00462-19
CHGA-002-0027B	A	10.7	SD 00462-20
CHGA-002-0028A	A	1.3	SD 00462-21
CHGA-002-0028B	A	1.3	SD 00462-22
CHGA-002-0028C	A	1.2	SD 00462-23
CHGA-002-0028D	A	1.3	SD 00462-24
CHGA-002-0029	A	1.1	SD 00462-25
CHGA-002-0030A	A	1.2	SD 00462-26
CHGA-002-0030B	A	1.1	SD 00462-27
CHGA-002-0031	A	2.3	SD 00462-28
CHGA-002-0032	A	1.8	SD 00462-29
CHGA-002-0033	A	1.7	SD 00462-30
CHGA-002-0034	A	1.2	SD 00462-31
CHGA-002-0035A	A	0.6	SD 00462-32
CHGA-002-0035B	A	0.3	SD 00462-33
CHGA-002-0036	A	0.9	SD 00462-34
CHGA-002-0037	A	1.4	SD 00462-35
CHGA-002-0038	A	2.4	SD 00462-36
CHGA-002-0039	A	2.7	SD 00462-37
CHGA-002-0040	A	1.0	SD 00462-38
CHGA-002-0042	A	10.8	SD 00462-39
	B	5.2	SD 00462-60
CHGA-002-0043	A	1.0	SD 00462-40
CHGA-002-0044	A	0.7	SD 00462-41
CHGA-002-0046	A	1.4	SD 00462-42
CHGA-002-0050	A	9.1	SD 00462-44
CHGA-003-0001A	A	27.2	SD 00462-45
CHGA-003-0001B	A	2.3	SD 00462-46
CHGA-003-0002	A	9.3	SD 00462-47
CHGA-003-0006	A	8.7	SD 00462-48
CHGA-003-0007	A	24.2	SD 00462-49
CHGA-003-0026	A	1.0	SD 00462-50
CHGA-003-0029	A	19.1	SD 00462-51

GONZALES-GURULE DITCH

Priority: 1878

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
 a FDR of 3.46 acre-feet per acre per annum, or
 a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-001-0006	B	21.3	SD 00466-1
CHGA-001-0010	A	1.9	SD 00466-3
CHGA-001-0011	A	2.5	SD 00466-4
CHGA-001-0012	A	1.6	SD 00466-5
CHGA-001-0013	A	0.6	SD 00466-6
CHGA-001-0014	A	2.8	SD 00466-7
CHGA-001-0015	A	14.0	SD 00466-8
CHGA-001-0016	A	5.8	SD 00466-9
CHGA-002-0001	A	5.7	SD 00466-11
CHGA-002-0003A	A	0.5	SD 00466-13
CHGA-002-0003B	A	2.3	SD 00466-14
CHGA-002-0003C	A	2.1	SD 00466-15
CHGA-002-0004	A	25.1	SD 00466-16
CHGA-002-0005	A	12.3	SD 00466-17
CHGA-002-0006A	A	43.2	SD 00466-18
CHGA-002-0006B	A	5.6	SD 00466-19
CHGA-002-0047	A	16.0	SD 00466-20
	B	2.9	SD 00466-25

CECILIA DITCH

Priority: 1878

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
 a FDR of 3.46 acre-feet per acre per annum, or
 a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-001-0001	A	19.0	SD 06108-1
CHGA-001-0002	A	27.9	SD 06108-2
CHGA-001-0003	A	63.6	SD 06108-3
CHGA-001-0004	A	3.2	SD 06108-4
CHGA-001-0005	A	3.2	SD 06108-5
CHGA-001-0006	A	7.2	SD 06108-6
CHGA-001-0007	A	15.3	SD 06108-7
CHGA-001-0008A	A	47.8	SD 06108-8
CHGA-001-0008B	A	39.6	SD 06108-9

VALDEZ DITCH

Priority: 1878

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
 a FDR of 3.46 acre-feet per acre per annum, or
 a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-002-0007	A	3.2	SD 01126-2
CHGA-002-0008	A	0.5	SD 01126-3
CHGA-002-0009A	A	1.2	SD 01126-10
CHGA-002-0009C	A	0.3	SD 01126-4
CHGA-002-0010	A	1.1	SD 01126-5
CHGA-002-0011	A	2.8	SD 01126-6
CHGA-002-0012	A	2.4	SD 01126-7
CHGA-002-0041	A	6.6	SD 01126-8

EMILIO JACQUEZ DITCH

Priority: 1902

An amount of water not to exceed:

a CIR of 1.38 acre-feet per acre per annum, or
a FDR of 3.46 acre-feet per acre per annum, or
a PDR of 5.77 acre-feet per acre per annum.

<u>Subfiles</u>	<u>Subfile header</u>	<u>Acreage</u>	<u>OSE File Number</u>
CHGA-002-0006A	B	10.2	SD 03370-1